

Internal Revenue Service

**District
Director**

Department of the Treasury

1100 Commerce St., Dallas, Texas 75242

Date: APR 02 1993

Person to Contact:

Telephone Number:

Refer Reply to:

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(03) of the Internal Revenue Code.

The information submitted indicates that you were incorporated under the laws of the state of [REDACTED], on [REDACTED]

You state that you exist to provide a means by which Christian churches could circulate information about their ministries to the neighborhoods to which their ministries are directed. The literature would contain relevant facts concerning their church, as well as informative and instructional articles concerning the Holy Bible, God's love, faith, and various doctrinal beliefs of the respective churches. You do not charge the churches anything for this service. You do seek to cover the costs of producing, publishing and disseminating the literature by approaching various businesses within the neighborhoods the churches are in and ask them to advertise their businesses to the church members and the other mail recipients of the literature. The money derived from this advertising goes to cover the expenses of the organization only. Any profit above and beyond the expenses of the organization will be donated to Christian religious organizations that qualify as 501(c)(3) organizations. You state that you believe you are unique in providing a not for profit intention as the means of securing dollars from profit businesses to pay for the ministry outreaches of legitimate church ministries who need this type of communication to reach the maximum amount of individuals possible with their divine message. The businesses that pay for their advertising in your publications are carefully screened to insure that the type of services and/or products that they provide do not conflict with the message and faith of the respective churches to which you provide services.

The financial data you submitted indicates that substantially all of your support is derived from the sale of advertising.

Section 501(c)(3) of the Code provides exemption for:

"Corporations...organized and operated exclusively for religious, charitable...or educational purposes...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that:


"An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3)..."

Revenue Ruling 70-535, 1970-2 C.B. 117, held that an organization managing low and moderate income housing projects under an agreement with a number of exempt corporations was held not exempt under IRC 501(c)(4). All of its income was from management fees and its funds were used for management services expenses. Management services were its primary activity and were carried on in a manner similar to organizations operated for profit. The fact that these services were performed for tax exempt corporations does not change the business nature of the activities. Since Code section 501(c)(3) is more restrictive than 501(c)(4), this organization would not qualify under Code section 501(c)(3).

Revenue Ruling 71-529, 1971-2 C.B. 234, held that an organization that provides management services to member organizations that control it, at substantially below cost, is exempt under Code section 501(c)(3).

Revenue Ruling 78-385, 1978-2 C.B. 174, held a religious and educational television station exempt under IRC 501(c)(3) even though it devoted an insubstantial amount of broadcast time to commercially sponsored programs. However, the commercially sponsored programs are unrelated trade or business under IRC 513.

The case of Scripture Press Foundation v. United States, 285 F.2d 800 (1961), cert. den. 363 U.S. 985 (1962), held that an organization with the general character of a commercial publishing house catering to religious customers was a trade or business and not exempt. The existence of a modest program of expenditures for religious and educational purposes unconnected with the publishing did not have a decisive effect.


Presbyterian and Reformed Publishing Co. v. Comm., 743 F.2d 148 (3rd Cir.1984) held that the accumulation of capital for physical expansion and the increased profit due to unexpected increases in the popularity of one of the publisher's authors did not show a substantial non-exempt purpose.


Though you adamantly assert that you do not exist to carry on a trade or business, the fact remains that you cannot be distinguished from a commercial operation, other than the fact that you limit your services to churches.

Like the organization described in Revenue Ruling 70-535, supra, you are providing services for which you are fully compensated and the nature of the activities of the organizations you serve does not change the business nature of your activities.

Unlike the organization described in Revenue Ruling 71-529, supra, you are not controlled by the organizations to whom you provide services and you do not provide your services at substantially below cost. Even though you do not charge the churches for services, you sell advertising in the newsletters you print for the churches.

You are similar to the organization described in Revenue Ruling 78-385, supra, in that you produce commercially sponsored material which is an unrelated business and would likely result in greater tax liabilities if you were exempt rather than non-exempt. You differ from the described organization because these unrelated activities are primary.

Like Scripture Press Foundation, supra, you are a commercial publisher or printer which caters to religious customers. Any religious purpose is incidental to your commercial activity. The advertising in your printed materials is totally unrelated to any religious purpose other than providing funds for you.

Unlike Presbyterian and Reformed Publishing Co., supra, you do have a substantial non-exempt purpose. You submitted approximately  newsletters. The advertising in these newsletters is indistinguishable from commercial advertising in secular material. The religious material in the newsletters is nothing more than information a church would provide to any commercial printer to prepare their newsletters. You have a substantial non-exempt purpose and that purpose is to conduct a commercial business.

You are not operated exclusively for charitable, religious or educational purposes. Accordingly, you do not qualify for exemption under Code section 501(c)(3). You are therefore required to file Federal income tax returns.

[REDACTED]

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Code as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

Sincerely,

[REDACTED]
District Director

Enclosures:
Form 6018
Pub 892